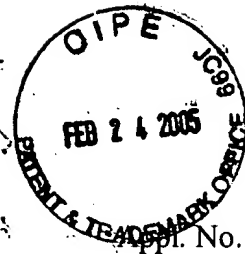


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No. : 09/669,486
Applicant : FLOCKHART et al.
Filed: : September 25, 2000
TC/A.U. : 3622
Examiner: : ALVAREZ, RAQUEL
Docket No. : 4366-20
Customer No. : 48500
Title: : "ROUTING BASED ON THE CONTENTS OF A SHOPPING CART"

"EXPRESS MAIL" MAILING LABEL NUMBER: EV493477309US
DATE OF DEPOSIT: 2/24/05
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESSMAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.
TYPED OR PRINTED NAME: Amy S. Duarte
SIGNATURE: *Amy Duarte*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL COMMENTS TO EXAMINER

Dear Sir:

Applicant has recently learned of the Federal Circuit decision "SuperGuide Corporation v. DirecTV Enterprises, Inc., et al., 358 F.3d 870 (Fed. Cir. 2004). In that decision, the Federal Circuit held, under the unique facts of that case, that the phrase "at least one of a desired program start time, a desired program end time, a desired program service, and a desired program type" means "at least one of a desired program start time, at least one of a desired program end time, at least one of a desired program service, and at least one of a desired program type".

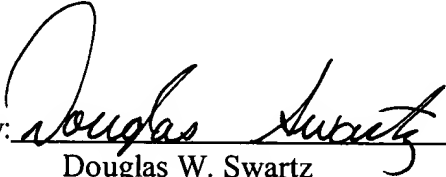
Applicant has used the phrase "at least one of . . . and" in a number of claims and wishes to clarify to the Examiner the proper construction of this phrase. For example, Applicant has used the phrases: "at least one of (i) an item value and (ii) item type ", "at least one of (i) an item value and (ii) item type ", and "at least one of (i) a value of one or more items and (ii) a type of one or more items in the set". Moreover, Applicant has also used the phrase "shopping cart, wish cart, and/or wish list". As is evident in the Specification and the filewrapper, Applicant intends the phrase "at least one . . . and" and ". . . and/or . . ." as used in the claims to be open-ended expressions that are

both conjunctive and disjunctive in operation. For example, the expressions "at least one of A, B and C" and "A, B, and/or C" mean A alone, B alone, C alone, A and B together, A and C together, B and C together, and A, B and C together. Apart from the Specification and file history, the doctrine of claim differentiation evidences this intent. In particular, the Examiner is directed to dependent claims 47-49, 56, 61-63, 70, 78-79, and 83.

In the event that the Examiner disagrees with this construction, Applicant hereby requests notification thereof so that Applicant may amend the claims and/or Specification in a manner to further clarify the intended claim construction.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

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Date: Feb 24, 2005